

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 03/30/2023

OMAR MARTINEZ,

Petitioner,

-v-

SUPERINTENDENT MARK T. MILLER,

Defendant.

23-cv-1281 (LJL)

ORDER


LEWIS J. LIMAN, United States District Judge:

By letter filed March 14, 2023, *pro se* Petitioner requested “the opportunity to exhaust [his] state remedies first and resubmit [his] petition in federal court.” Dkt. No. 11. Construing *pro se* Petitioner’s letter liberally, as the Court is obliged to do, *see Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009), the Court interprets Petitioner’s letter as a request to stay this action pending exhaustion of his state-court remedies. *See Rhines v. Weber*, 544 U.S. 269, 271 (2005). Respondent is directed to respond to Petitioner’s request on or before April 28, 2023, and address whether the Court should stay, rather than dismiss, Petitioner’s mixed petition, how much time remains on the one-year statute of limitations imposed by the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”), and whether the AEDPA’s statute of limitations is currently tolled. Petitioner is directed to submit a reply, if any, on or before May 31, 2023.

Pending the Court’s decision on whether to stay this action, Respondent is relieved of the obligations to file and serve (1) an answer, motion, or other response to the petition, and (2) the transcripts and briefs identified in Rule 5(c) of the Rules Governing Section 2254 Cases in the United States District Courts, as directed by the Court’s Order to Answer. Dkt. No. 5.

SO ORDERED.

Dated: March 30, 2023
New York, New York


LEWIS J. LIMAN
United States District Judge